



Appeal Decision

Site visit made on 7 November 2023

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2024

Appeal Ref: APP/H5960/W/23/3327529

Bendon Valley House, 218-220 Garratt Lane, Wandsworth, London SW18 4EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Elkington against the decision of London Borough of Wandsworth.
 - The application Ref 2023/0031, dated 4 January 2023, was refused by notice dated 2 March 2023.
 - The development proposed is demolition of existing three-storey detached property and the erection of new four storey property to create 9 self-contained flats (5 x 3-bed units, 2 x 2-bed units, 2 x 1-bed/1-person) with associated private outside amenity space for each unit and secure internal refuse and cycle storage and 262 sq/m unit of light industrial use (Class E) at ground floor level.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following submission of the appeal, the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The main parties have provided their observations on the Framework, and I have taken these comments into account as part of my assessment of the appeal.
3. Since the Local Planning Authority (LPA) issued its decision on the planning application which led to this appeal, it has adopted the Wandsworth Local Plan (July 2023) (WLP). This supersedes the policies of the Wandsworth Local Plan Development Management Policies Document (2016) (DMPD) which were referred to on the decision notice. The LPA has confirmed the relevant policies of the WLP within its statement of case and my assessment of the appeal is made on the basis of these policies.
4. With regards to the second reason for refusal on the decision notice, the appellant has confirmed that 'Flat 3' would be a three-bedroomed, four-person, two-storey unit. The LPA accepts that on that basis it would meet the relevant minimal internal floor area in the Nationally Described Space Standard Internal Space and therefore is not contesting that particular matter. I have taken this into account in defining the main issues.

Main Issues

5. The main issues are:

- (i) the effect of the proposal on the character and appearance of the area including, but not limited to, the setting of the locally listed Jolly Gardeners public house;
- (ii) whether or not the proposal would prejudice the operation of neighbouring land uses; and
- (iii) the effect of the proposal on biodiversity including, but not limited to, protected species.

Reasons

Character and appearance

6. The appeal site is situated in an area which is characterised by a mix of uses and a range of architectural styles. While there is variation in scale along Garratt Lane, the height, layout and mass of buildings is more often influenced by neighbouring buildings in their immediate context.
7. For example, in close proximity to the appeal site, No 200 Garratt Lane is attached to the Grosvenor Arms Public House and they have a common main roof line. There is an additional enclosure above this roof line on No 200, but it has a discreet presence at street level due to its substantial recess from the main roof edge. The nearby Floreat Wandsworth Primary School is of a similar height and block form to these buildings and has clean rooflines. The terraced row opposite the appeal site displays a mix of traditional and contemporary architecture, but there is general consistency in scale along this row. On the opposite corner to the site, the large unit at 'Safestore Self Storage', is substantively set away from the Garratt Lane frontage such that it does not have a dominant presence on this road.
8. The appeal site neighbours the locally listed Jolly Gardners Public House. The significance of this non-designated heritage asset (NDHA) primarily derives from its architectural interest for being a representative example of mid to late C19 public house architecture. The high retention of its original features gives it much historical interest. The built context of Garratt Lane has clearly evolved over time and so too has the setting of the NDHA. Consequently, there remains only small vestiges of the NDHA's historic surroundings, notably some of the Victorian terraces on the east side of Garratt Lane and the Grosvenor Arms to the north.
9. The existing building on the appeal site does not form part of the NDHA's historical context. Even so, while it is slightly taller than the NDHA, it has a comparable pitched roof and side gable. Its L-shaped layout means that it steps away from the boundary with the NDHA. As a result, in views from the south on Garratt Lane where the NDHA sits in the foreground, the existing building on the appeal site displays a side profile of similar scale, mass and depth and does not dominate the NDHA.
10. Overall, the general semblance of scale and mass gives a pleasant order and rhythm to the buildings along Garratt Lane. For the reasons described, these factors also positively contribute to the setting of the NDHA.
11. The block form and yellow stock facing brick to the three-storey elements of the proposal would to some extent reflect some of the other modern buildings on Garratt Lane. However, the top floor above this would only be slightly

recessed and together with its contrasting anthracite grey facing materials would be very noticeable against the skyline. This would emphasise the building's greater bulk and scale relative to buildings within its immediate context on Garratt Lane. It would also appear at odds with the more unified design and simpler roofscapes of the other modern buildings which sit close to the site, such as at Floreat Wandsworth Primary School and No 200 Garratt Lane. A condition requiring alternative facing materials would not on its own overcome these concerns.

12. Furthermore, due to the development's deep side profile close to the boundary with the NDHA, its greater height and mass would unduly dominate the NDHA, particularly in views from the south on Garratt Lane. This would detract from the setting of the NDHA. Even though it is common ground between the main parties that the existing building on the site has some detracting architectural features and which do not positively contribute to the setting of the NDHA, this does not justify development which itself would not preserve or enhance the setting of the NDHA.
13. In addition, from what I saw, external terraces are not a common feature to this section of Garratt Lane. The two external terraces on the front elevation of the development would be of differing widths and their alternate positioning within the first and second floors would unbalance the fenestration facing Garratt Lane. This further persuades me that the building is not well-designed and is not sympathetic to its immediate context.
14. The appellant's Heritage Appeal statement gives examples of statutorily listed buildings within Wandsworth which have taller buildings within their settings. However, this does not persuade me that the proposal would be acceptable having regard to the site-specific issues described. I find that there would be moderate harm to the setting of the NDHA. Having regard to the requirements of the Framework, when applying a balanced judgement the harm identified only adds to my overall concerns that the proposal would detract from the general order, rhythm and semblance of scale as one travels along Garratt Lane.
15. The proposed drawings include a 'proposed residential building under consideration' at No 206 – 212 Garratt Lane¹. I understand that proposal was refused planning permission, albeit the appellant contends it was not refused on the basis on its scale. Whether or not that be the case, this does not alter my own observations in respect of the specific design of the proposal relative to its immediate surroundings.
16. The appellant has drawn my attention to a five-storey development approved by the LPA in 2020². However, from the street scene provided the heights in that instance reflect the context of that part of the street which includes an existing building of comparable height on the opposite corner of Swaffield Road. Therefore, that particular development does not persuade me that the appeal proposal would appropriately reflect its immediate context.
17. I have not been provided with full details of the developments at 'Riverside Business Centre & Flip Out Trampoline Centre, Haldene Place'³ or at

¹ LPA Ref 2021/5780

² LPA Ref 2017/4141

³ LPA Ref 2018/4176

'Nos 1023 – 1025 Garratt Lane'⁴. In any case, from what I have seen those particular developments are not comparable to the design of the appeal proposal relative to its immediate surrounds.

18. I conclude, the proposal would have a significantly harmful effect on the character and appearance of the area, including but not limited to the setting of the locally listed Jolly Gardeners public house. In that regard, it would conflict with the character, context and conservation requirements of Policies D3 (Optimising site capacity through the design-led approach) and D4 (Delivering good design) of the London Plan (2021) (LP 2021) and Policies LP1 (The Design-led Approach) and LP3 (Historic Environment) of the WLP.

Whether the proposal would prejudice the operation of neighbouring land uses

19. Policy D13 (Agent of Change) of the WLP places the responsibility for mitigating impacts from existing noise and other nuisance-generating activities or uses on the proposed new noise-sensitive development. It confirms that development should be designed to ensure that established noise and other nuisance-generating uses remain viable and can continue or grow without unreasonable restrictions being placed on them. This is consistent with the requirements of Paragraphs 193 and 194 of the Framework.
20. On my site visit, I accessed the rear of the existing building on the appeal site which gave me an appreciation of the close relationship of the site to the external seating area associated with the Jolly Gardeners Public House and the neighbouring coach car park at Earlsfield Business Centre, both of which share boundaries with the appeal site. I understand that the latter of these sits within a designated Locally Significant Industrial Area (LSIA).
21. The existing building's L-shape ensures that windows serving habitable rooms are generally set away from the boundary with the external seating area serving the Jolly Gardeners. I also saw that while there are balconies to the rear of the existing building, their primary purpose is for access. In contrast, the proposal includes courtyards and several bedroom windows facing and in very close proximity to the boundary with the public house.
22. The appellant's Noise Impact Assessment (27 June 2023) (NIA) includes noise levels surveyed over a three-day period and accounts for noise levels during both the daytime and night-time. From 'Noise Measurement Position 1' average noise levels of 60 dBA in the daytime and 52 dBA at night-time were observed. Therefore, the NIA acknowledges that the external building fabric would need to be carefully designed to achieve recommended internal noise levels. The appellant suggests that based on the findings of the NIA, triple-glazed sound insulated windows would ensure a policy compliant noise environment for the nearest bedrooms, including at night-time where windows could be open up to 2% of the floor area while still achieving sufficient attenuation.
23. However, 'Noise Measurement Position 1' within the NIA was taken from a position further away from the boundary than the position of the nearest windows and courtyards within the proposed development. Therefore, I am concerned that noise from the Jolly Gardener's external seating area would be more perceptible in the immediate vicinity of the boundary than has been accounted for in the NIA. During summer months when windows are more

⁴ LPA Ref 2019/0866

likely to be open and when the external seating area would be more likely to be frequented late into the evening this has the potential to be detrimental to living conditions. Given the discrepancy in the position of the noise measurement, it is not clear whether the suggested mitigation measures would be sufficient to ensure an acceptable internal noise environment for those occupiers that would be closest to the boundary.

24. In addition, the NIA acknowledges that the noise levels within the external amenity areas show an exceedance of the target levels presented within BS8233:2014 'Sound insulation and noise reduction for buildings'. This further persuades me that the overall living environment for occupiers of the flats closest to the northern boundary would be unduly compromised. Even if balanced against the benefit of providing external amenity areas this does not override my overall concerns.
25. None of the proposed windows or external terraces would have an aspect towards the coach car park. From the evidence before me, I find no reason to disagree with the main parties that the operation of the coach hire company would be prejudiced by the proposal. However, from what I have seen the NIA does not factor the potential that other uses appropriate to the LSIA could generate increased levels of activity and noise from that neighbouring site in the future. Even factoring the established use of the appeal site for residential purposes, the proposal would result in an increased level of residential occupation on the site and therefore more occupiers that could be affected by future increases in noise levels.
26. My attention has been drawn to the relationship between the residential units at No 200 Garratt Lane and the Grosvenor Arms Public House. However, from what I have seen, that particular development was approved prior to the 'agent of change' principle being introduced into national and local policy. Furthermore, as far as I can ascertain, the relationships between the nearest neighbouring windows and the outdoor space serving the Grosvenor Arms are not identical to those that would result from the appeal proposal.
27. Taking all the above factors into account, I cannot be certain that noise from adjoining land uses would not have a significant adverse effect on the living conditions of future occupiers of the development. Therefore, the development has the potential to prejudice the future operation of neighbouring land uses. In that regard, it would conflict with the requirements to protect the amenity of neighbouring occupiers without harming the continued operation of existing uses in line with the Agent of Change principle in Policy LP14 (Air Quality, Pollution and Managing Impacts of Development) of the WLP, Policy D13 (Agent of Change) of the LP 2021 and the Framework.

Biodiversity

28. The evidence before me indicates that the appeal site is located in close proximity to King Georges Park and the River Wandle and that these are designated Sites of Importance for Nature Conservation (SINC). The LPA suggests that bats forage from the River Wandle.
29. The appellant contends that a Preliminary Ecology Appraisal (PEA) on the neighbouring site at No 206 – 212 Garratt Lane suggested that due to the distance and lack of any functional connectivity between the site boundaries

- and the SINCs, no impact was expected. In that instance the PEA also outlined that there was a lack of features to support wildlife within that building.
30. In terms of any potential effect on the SINCs, I accept that from a distance and functional connectivity perspective the effects are likely to be comparable to those observed in the PEA for the neighbouring site.
31. However, in this instance no site-specific surveys of the building on the appeal site have been undertaken to demonstrate that it has an absence of features that may support wildlife. More particularly, there is no clear evidence before me to dispute the LPA's concern that the building may provide roosting opportunities for bats. Such opportunities may for example exist in the building's roof. In the circumstances, I cannot be certain that the demolition of the existing building would not have the potential to disturb protected species and, in the event that it would, that this could be appropriately mitigated.
32. The Framework seeks amongst other things to avoid significant harm to biodiversity. The Office of the Deputy Prime Minister Circular 06/2005 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System) states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that it, "... is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision".
33. The appellant contends that the existing building could be demolished under permitted development rights and in those circumstances would not require ecological assessment. Whether or not that be the case, I have assessed the proposal on the basis that planning permission is required for the proposed development and is applied for, and the clear steer from the Government to avoid significant harm to biodiversity and to establish this before planning permission is granted.
34. The appellant has provided an Urban Greening and Biodiversity Net Gain Report which outlines that an Urban Greening Factor score of 0.4 and a biodiversity net gain of 10% could be achieved. Even, though this particular matter is not in dispute, this does not overcome my concerns in respect of potential adverse effects on protected species.
35. I conclude, it has not been demonstrated that the development would not result in significant harm to biodiversity with particular regard to protected species. In that regard, it would conflict with the requirements to demonstrate any impacts on priority species can be adequately mitigated in Policy LP55 (Biodiversity) of the WLP. The proposal would also be contrary to the clear intentions of the Framework and Circular 06/2005 to avoid significant harm to biodiversity.

Other Matters

36. Although located within a designated LSIA, a lawful residential use of the site has been established within the existing building. There would be an uplift of three residential units over the present situation in a range of unit sizes which

would contribute towards the LPA's housing requirements. It is common ground between the parties that the development would be capable of achieving a 50% improvement in CO2 emissions and an Urban Greening Factor and Biodiversity Net Gain are envisaged. There would also be social and economic benefits deriving from the development of the site, through the provision of commercial floorspace on the ground floor and through the use of local services and facilities by future residential occupiers of the development.

37. The above matters are positive aspects of the scheme, and I recognise the support in the Framework for developments to make efficient use of brownfield land, to optimise site densities and to deliver new homes in sustainable locations. However, there is nothing before me to suggest that the LPA is not meeting its housing requirements. Moreover, meeting these requirements does not justify the significant harm identified under the main issues.

Conclusion

38. The proposal would have a harmful effect on the character and appearance of the area. I have also found that it has the potential to prejudice the future operation of neighbouring land uses and that it has not been demonstrated that the proposal would not result in harm to protected species. The development therefore conflicts with the development plan taken as a whole and the Framework. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

M Russell

INSPECTOR